



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MDD/149186

PRELIMINARY RECITALS

Pursuant to a petition filed February 04, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on July 16, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly determined that the Petitioner is not disabled.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: No Appearance

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner is 46 years old. He has a 12th grade education. His primary diagnoses include arthritis in his neck and spine. He has numbness in his left hand. He has pain and numbness throughout his extremities as well as lower back pain. His hands frequently seize up.
3. On March 29, 2012, the Petitioner filed a disability application with the Social Security Administration (SSA). His SSA application was denied on January 7, 2013.

4. On December 26, 2012, the Petitioner filed a Medicaid Disability Application (MADA). The agency determined the Petitioner was not disabled and issued a notice to the Petitioner on January 25, 2013.
5. On February 4, 2013, a Request for Reconsideration was filed. On May 1, 2013, the Petitioner's request for reconsideration was denied.

DISCUSSION

A person between 18 and 65 who is not pregnant and has no minor children must be blind or disabled to be eligible for MA. A finding of disability must be in accordance with federal social security/SSI standards. See Wis. Stat. § 49.47(4)(a)4. Because the standards are the same, a finding of no disability for social security/SSI purposes made within 12 months of the MA application is binding on a state Medicaid agency. Exceptions may occur only if certain conditions exist such as allegations of a different disabling condition or changes in the previously considered conditions. See 42 C.F.R. § 435.541(c); see also U.S. Department of Health and Human Services commentary, 54 Fed. Reg. 236 (1989).

In this case, the SSA made a finding of no disability on January 7, 2013. This is within 12 months of his Medicaid application on December 26, 2012. The allegation that his condition is deteriorating was considered by SSA in its determination of January 7, 2013. The Petitioner alleged at the hearing that his condition continues to deteriorate but there is no evidence of a different disabling condition or changes in his condition that were not previously considered. I must, therefore, affirm the agency's finding of no disability.

CONCLUSIONS OF LAW

The agency properly determined that the Petitioner is not disabled.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

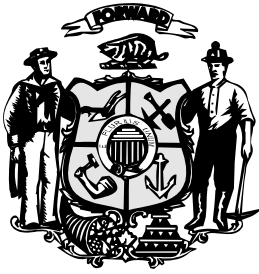
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 29th day of July, 2013

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 29, 2013.

Milwaukee Enrollment Services
Disability Determination Bureau